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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/872,135

05/31/2001

Brandon James Yoe

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1923

7590 05/17/2007
CAMERON KERRIGAN
SQUIRE,SANDERS & DEMPSEY L.L.P
ONE MARITIME PLAZA, SUITE 300
SAN FRANCISCO,, CA 94111-3492

EXAMINER

NGUYEN, CAMTU TRAN

ART UNIT

PAPER NUMBER

3772

MAIL DATE

DELIVERY MODE

05/17/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/872,135

Applicant(s)

YOE ET AL

Examiner

Camtu T. Nguyen

Art Unit

3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5-7,10,17-25,27-32,37-39,41-44,53-59,61,63-74 and 76-82 is/are pending in the application.
- 4a) Of the above claim(s) 16,26,46-50 and 75 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-15,17-30,37-39,41-44,65,66,70,74,78 and 81 is/are allowed.
- 6) ☒ Claim(s) 1,3,5-7,10-12,31,32,53-59,61, 63, 64,67-69,71-73,76,77,79,80 and 82 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Election

This Office Action is in response to applicant's election of embodiment of Figure 4 without traverse filed on April 27, 2006 is acknowledged. Applicant identified claims 1, 3, 5, 6-7, 10-15, 17-25, 27-32, 37-39, 41-44, 47-50, 53-59, 61, 63-82 as readable on the elected embodiment. With regards to claim 46, which applicant agreed it is directed to the non-elected embodiment, therefore, dependent claims 47-50 and 75 depending from withdrawn claim 46 have also been withdrawn from consideration due to inherency.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 5-7, 10-12, 21-25, 27-30, 31, 32, 53-59, 61, 63, 64, 67-69, 71-73, 76, 77, 79, 80 and 82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hossainy et al (U.S. Patent No. 6,783,793). Hossainy et al discloses a stent (206) which inherently possessing a middle end located between two opposing ends, Hossainy et al discloses there is a gradually decreasing the number of radioactive material towards to ends of the stents, thereby, providing a smooth transition in radiation amounts between adjacent tissue cells (column 11 lines 13-16). With regards to the point from which radioactive material begins to decrease portion along the

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length of the stent, in particular, the point inward of the distal end, such point would always be included on the longitudinal length of the stent no matter how infinitesimally small. With regards to claim 53, 63, 67, 69, 70, and 71 where applicant recites the delivery source carrying a therapeutic agent or drug, the Hossainy et al device's radioactive materials inherently meets these claims' cited limitation.

Allowable Subject Matter

Claims 13-15, 17-20, 37-39, 41-44, 65, 66, 70, 74, 78, and 81 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camtu T. Nguyen whose telephone number is 571-272-4799. The examiner can normally be reached on (M-F) 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Camtu Nguyen
May 12, 2007

A handwritten signature in black ink, appearing to read "Michael A. Brown", with a long horizontal flourish extending to the right.

MICHAEL A. BROWN
PRIMARY EXAMINER